

ANGEL & FRANKEL, P.C.  
Attorneys for Cedar Chemical Corporation  
and Vicksburg Chemical Company  
Debtors and Debtors-in-Possession  
460 Park Avenue  
New York, NY 10022-1906  
(212) 752-8000  
Joshua J. Angel, Esq. (JA-3288)  
Bruce Frankel, Esq. (BF-9009)  
Bonnie L. Pollack, Esq. (BP-3711)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 11

CEDAR CHEMICAL CORPORATION and  
VICKSBURG CHEMICAL COMPANY,

Case Nos. 02-11039 (SMB) and  
02-11040 (SMB)

Debtors.

Jointly Administered  
-----X

**MOTION FOR ORDER PURSUANT TO 11 U.S.C. § 105, DETERMINING  
THAT RICECO IS NOT LIABLE FOR ENVIRONMENTAL CLEANUP,  
AND PURSUANT TO 11 U.S.C. § 362(a) OR, ALTERNATIVELY,  
PURSUANT TO 11 U.S.C. § 105, APPLYING AND  
ENFORCING THE AUTOMATIC STAY**

Cedar Chemical Corporation ("Cedar") and Vicksburg Chemical Company ("Vicksburg"; together with Cedar, the "Debtors"), by their attorneys Angel & Frankel, P.C., submit this motion (the "Motion") for an order pursuant to section 105 of Title 11 of the United States Code (the "Bankruptcy Code"), determining that RiceCo, LLP ("RiceCo") is not liable for cleanup of the facility in West Helena, Arkansas formerly owned and operated by Cedar (the "Cedar Facility"), and pursuant to section 362(a) or, alternatively, section 105 of the Bankruptcy Code, applying and enforcing the automatic stay with respect to actions taken by the Arkansas Department of Environmental Quality (the "ADEQ").



In support of this Motion, the Debtors respectfully represent as follows:

### Introduction

1. On March 8, 2002 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").
2. Also on March 8, 2002, the Bankruptcy Court granted the Debtors' application allowing joint administration of the Debtors' cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure.
3. The Debtors have been authorized to remain in possession of their property and to continue in the operation and management of their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.
4. An official committee of unsecured creditors has been appointed by the office of the United States Trustee for the Southern District of New York in the Debtors' cases and it has chosen the law firm of Satterlee Stephens Burke & Burke LLP to serve as its counsel.
5. No trustee or examiner has been appointed in the Debtors' chapter 11 cases.
6. Cedar owns 49% of RiceCo and, since last summer, has been negotiating to sell its ownership interest in RiceCo as part of the on-going liquidation of its assets. Currently Cedar is finalizing the negotiation of the sale of its interest in RiceCo with one interested buyer. See Affidavit of Philip Gund, attached hereto as Exhibit "A". As a result of a Confidentiality Agreement entered into by Cedar, Cedar is unable at this time to disclose either the identity of the prospective buyer or the exact purchase price. However, the purchase price is significant.
7. On or about November 20, 2002, RiceCo received a letter from the ADEQ regarding the Cedar Facility, notifying RiceCo of its alleged potential liability for cleanup of the

Cedar Facility (the "ADEQ Letter"). A copy of the ADEQ Letter is annexed hereto as Exhibit "B". The ADEQ letter stated that "hazardous substances were released into the environment as a result of operations" at the Cedar Facility and that "[a]s a result of RiceCo's involvement in the formulation lab [at the Cedar Facility], the [ADEQ] contends that RiceCo is a potentially responsible party concerning the abandoned chemicals located in the formulation laboratory" pursuant to Ark. Code section 8-7-512.

8. Under Ark. Code section 8-7-512, the following persons are liable to the ADEQ for all costs of remedial actions undertaken to cleanup a particular site: (a) the owner and operator of a facility; (b) any person who, at the time of disposal of any hazardous substance, owned or operated a hazardous substance site; (c) any generator of hazardous substances who, at the time of disposal, caused such substance to be disposed of at a hazardous substance site or who causes a release or threatened release of the hazardous substances; or (d) any transporter of hazardous substances who causes a release or threatened release of the hazardous substances or who, at the time of disposal, selected a hazardous substance site for disposal of the hazardous substances. Like its federal counterpart (CERCLA), clean-up liability under Arkansas environmental law is retroactive, strict, joint and several. By summarily asserting – without any supporting evidence – that RiceCo potentially falls within the scope of responsible parties under Ark. Code section 8-7-512, the ADEQ is threatening RiceCo (and any purchaser of a significant share of RiceCo) with the prospect of crippling liability. The chilling effect of the ADEQ's actions on Cedar's attempt to sell its interest in RiceCo leaves little to the imagination.

9. On or about December 19, 2002, James K. Hines, President and CEO of RiceCo, responded by letter to the ADEQ (the "Hines Letter"). A copy of the Hines Letter is annexed hereto as Exhibit "C". Specifically, the Hines Letter addressed the three factual concerns raised

by the ADEQ, namely (a) the presence of off-specification product at the Cedar Facility which was packaged in containers bearing RiceCo's "brand" name; (b) RiceCo's relationship with a former Cedar employee; and (c) Cedar's partial ownership interest in RiceCo. The Hines Letter responded to these issues by pointing out the following facts:

- RiceCo is an independent limited liability company incorporated in Delaware. Cedar is one of two members of the LLC and Cedar owns less than a 50% interest in RiceCo. No officers of RiceCo have ever served simultaneously as officers of RiceCo and Cedar.
- RiceCo has no ownership interest in Cedar nor has it ever had an ownership interest in Cedar. RiceCo was not involved in the operation of the Cedar Facility. It did not contract with Cedar for the use of the production or laboratory facilities at the Cedar Facility and no RiceCo employee ever worked in Cedar's production or laboratory facilities.
- RiceCo did employ Richard Fraley, a former employee of Cedar, as an independent contractor (not as an employee), after Mr. Fraley was terminated by Cedar. Mr. Fraley was contracted solely to provide RiceCo assistance during the transition to new formulators for the manufacture of propanil products after Cedar ceased producing those products for RiceCo. Mr. Fraley's consulting services terminated on December 31, 2002.
- RiceCo has no knowledge or ownership of any inventory of off-specification products at the Cedar Facility.
- RiceCo simply purchased technical propanil and finished formulated product from Cedar as a customer. Ownership of any product RiceCo bought from Cedar was transferred to RiceCo only when finished product exited the Cedar Facility.

- Had there been any off-specification product at the Cedar Facility, it would not have left the Cedar Facility. Ownership of that off-specification product would not have transferred to RiceCo because RiceCo would not be invoiced for or take title to product which did not meet the specifications set out in the designated formula for such product and which did not leave the Cedar Facility site.

10. As a result of the ADEQ Letter and its serious financial implications for RiceCo, the potential purchaser for Cedar's interest in RiceCo is threatening to walk away if the ADEQ's claim against RiceCo is not resolved immediately. See Affidavit of Philip Gund.

### **Relief Requested**

11. By this Motion, the Debtors seek entry of an order determining that RiceCo is not liable to the ADEQ for environmental cleanup of the Cedar Facility, and applying and enforcing the automatic stay with respect to actions taken by the ADEQ to enforce liability against RiceCo for cleanup of the Cedar Facility.

12. First, it is clear that RiceCo is not liable to the ADEQ pursuant to Ark. Code section 8-7-512. RiceCo did not own or operate the Cedar facility, did not own or operate a hazardous substance site, and did not generate, release or transport hazardous substances. RiceCo is a distinct entity from Cedar. Cedar manufactured product for RiceCo, which Cedar produced, stored and shipped. Simply put, the only reason the ADEQ could be pursuing RiceCo for liability is because it is a valuable asset of the estate which the ADEQ is attempting to exert leverage over.

13. Given this, the Court should issue an order determining that RiceCo has no liability to the ADEQ. Section 105 of the Bankruptcy Code reads in pertinent part:

- (a) The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

11 U.S.C. § 105.

14. The ADEQ's completely unfounded actions are causing extreme harm to the estate, which is now in danger of losing the significant proceeds from the sale of Cedar's interest in RiceCo. Thus, the ADEQ's actions integrally effect the administration of the estate, and the assets and liabilities thereof. The Debtors submit that the Court should utilize its section 105 powers to avoid the impact of the ADEQ's detrimental actions by determining that such actions are without merit and that RiceCo has no liability to the ADEQ.

15. In addition, the ADEQ's actions are tantamount to a violation of the automatic stay in Cedar's case. Section 362 of the Bankruptcy Code reads in pertinent part:

(a) Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of — . . .

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;

11 U.S.C. § 362.

16. The automatic stay in section 362 acts to prevent the ADEQ from pursuing its claim against the Debtors directly. However, the ADEQ is attempting to circumvent the automatic stay in section 362(a) by taking action against RiceCo — while the real target of its action is the Debtors.

17. Under section 105(a), the bankruptcy court has the power to extend the automatic stay to restrain activities such as the ADEQ's where it is necessary and appropriate to carry out the purposes of the automatic stay. See In re Granite Partners, L.P., 194 B.R. 318, 337-8 (Bankr. S.D.N.Y. 1996) (section 105 grants the bankruptcy court the power to extend the automatic stay under section 362 to enjoin actions by third parties against third parties); LTV

Steel Corp. v. Board of Educ. (In re Chateaugay Corp. Roemer, Inc.), 93 B.R. 26, 29 (S.D.N.Y. 1988) (the bankruptcy court has authority under section 105 broader than the automatic stay provisions in section 362); Johns-Manville Corp. v. Asbestos Litig. Group (In re Johns-Manville), 26 B.R. 420, 436 (Bankr. S.D.N.Y. 1983), aff'd in part, 40 B.R. 219 (S.D.N.Y. 1984), rev'd in part on other grounds, 41 B.R. 926 (S.D.N.Y. 1984) (Pursuant to § 105(a), the bankruptcy court may extend the automatic stay under § 362 of the Code to stay and enjoin acts against non-debtors where such actions would interfere with, deplete or adversely affect property of the debtor's estate or which would frustrate the statutory scheme of chapter 11).

18. The automatic stay may be extended to actions designed to circumvent the automatic stay by seeking recovery from third parties when the real party in interest is the debtor. Id. Moreover, the automatic stay may be extended to cover actions that threaten the orderly liquidation of the debtor's estate, that interfere with, deplete or adversely affect the debtor's assets or estate or that impair the court's jurisdiction with respect to a case before it. See In re Granite Partners, L.P., 194 B.R. at 337 n. 23 ("Under Section 105, the bankruptcy court can issue an injunction to restrain activities that threaten the reorganization process or impair the court's jurisdiction with respect to a case before it"); In re North Star Contracting Corp., 125 B.R. 368, 370 (S.D.N.Y. 1991) (bankruptcy courts can extend the automatic stay to include actions by or against non-debtors when such actions have a significant impact on, or would adversely affect, the bankrupt); In re Johns-Manville Corp., 33 B.R. 254, 263 (Bankr. S.D.N.Y. 1983) (the bankruptcy court may enjoin actions by or against non-debtors where such actions would interfere with, deplete or adversely affect property of the debtor's estate).

19. Extending the automatic stay in this case is necessary and appropriate because the ADEQ's purported action against RiceCo is in reality a thinly-veiled attempt to extract funds

from the Debtors' estates. See In re Johns-Manville, 26 B.R. at 436 (the bankruptcy court extended the automatic stay under section 105(a), finding that it was necessary and appropriate because the enjoined lawsuit was designed to circumvent the automatic stay by suing the officers and directors of the debtor when the real party in interest was the debtor); In re North Star Contracting Corp., 125 B.R. at 371 (lawsuit against president of debtor enjoined because allowing suit to proceed would harm the debtor's reorganization efforts and, if the suit were successful, it would adversely affect the debtor's assets).

20. The ADEQ, by precipitously labeling RiceCo a "potentially responsible party" without first seeking to establish some factual support for its allegations, is seriously hindering Cedar's efforts to sell its 49% stake in RiceCo. Most importantly, as demonstrated by the Hines Letter, the ADEQ simply has no factual basis to assert a claim against RiceCo. The ADEQ is well aware of Cedar's efforts to sell its interest in RiceCo. Should the ADEQ continue to press its claim against RiceCo under these circumstances, the resulting adverse impact on the Debtors' estates will be twofold: (a) the only bidder for Cedar's interest in RiceCo may walk away and Cedar may be left with no purchaser for its stake in RiceCo, having a significant financial impact on Cedar; and (b) if RiceCo ultimately pays for the remediation of the Cedar Facility (to avoid



costly litigation), it would likely attempt to recover 100% of its costs against the Debtors pursuant to Ark. Code § 8-7-520.<sup>1</sup>

21. For the above reasons, the ADEQ's action against RiceCo represents an "end-run" around the automatic stay. In pursuing a baseless claim against RiceCo while the Debtors are trying to complete their liquidation by selling their share of RiceCo, the ADEQ is attempting to recover money from the Debtors' estate in violation of the automatic stay and to the detriment of other creditors.

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<sup>1</sup> Ark. Code § 8-7-520 allows any party that has undertaken remediation at a site to seek contribution for the cost of the remediation from other responsible parties:

"(a) Any person who has undertaken or is undertaking remedial action at a hazardous substance site in response to an administrative or judicial order initiated against such person pursuant to §§ 8-7-508 or 8-7-1104(d) may obtain contribution from any other person who is liable for such hazardous substance site.

(b) Any person who has resolved all or a portion of his liability for a hazardous substance site by undertaking remedial action pursuant to an administrative or judicially approved settlement may obtain contribution from any person who is liable for such hazardous substance site and is not a party to the settlement."

WHEREFORE, the Debtors respectfully request that this Court enter the proposed order, substantially in the form annexed hereto as Exhibit "D", and grant the Debtors such other and further relief as may be just and proper.

Dated: New York, New York  
February 7, 2003

ANGEL & FRANKEL, P.C.  
Attorneys for Cedar Chemical Corporation and  
Vicksburg Chemical Corporation  
Debtors and Debtors-in-Possession

By: /s/ Craig R. Nussbaum  
Joshua J. Angel, Esq. (JA-3288)  
Bonnie L. Pollack, Esq. (BP-3711)  
Craig R. Nussbaum, Esq. (CN-8742)  
460 Park Avenue  
New York, NY 10022-1906  
(212) 752-8000

## **EXHIBIT "A"**

**Exhibit "A"**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
In Re:

Chapter 11

CEDAR CHEMICAL CORPORATION and  
VICKSBURG CHEMICAL COMPANY,

Case No. 02-11039 (SMB) and  
02-11040

Debtors.

Jointly Administered  
-----x

**AFFIDAVIT OF PHILIP GUND IN SUPPORT OF MOTION FOR ORDER  
PURSUANT TO 11 U.S.C. § 105, DETERMINING THAT RICECO IS NOT  
LIABLE FOR ENVIRONMENTAL CLEANUP, AND PURSUANT TO 11  
U.S.C. § 362(a) OR, ALTERNATIVELY, PURSUANT TO 11 U.S.C. § 105,  
APPLYING AND ENFORCING THE AUTOMATIC STAY**

STATE OF NEW YORK     )

: ss

COUNTY OF NEW YORK    )

PHILIP GUND, being duly sworn, deposes and says:

1. I am the restructuring officer and President of Cedar Chemical Corporation ("Cedar") and Vicksburg Chemical Company ("Vicksburg"; together with Cedar, the "Debtors"). I am fully familiar with the facts and circumstances set forth herein. I make this affidavit in support of the Motion for an Order determining that RiceCo, LLP ("RiceCo") is not liable for cleanup of the facility in West Helena, Arkansas formerly owned and operated by Cedar (the "Cedar Facility"), and applying and enforcing the automatic stay with respect to actions taken by the Arkansas Department of Environmental Quality (the "ADEQ").

2. The Debtors are currently in the process of liquidating their assets. One such asset is Cedar's 49% membership interest in RiceCo.

3. Since July 2002, Cedar has been seeking a buyer for its interest in RiceCo. To this end, Cedar identified a limited number of parties who may be interested in purchasing Cedar's interest in RiceCo. Cedar contacted those parties about the possibility of buying Cedar's interest in RiceCo. A few of the parties contacted signed confidentiality agreements and Cedar sent those parties an information package regarding RiceCo.

4. Of the parties to receive the information package, three expressed interest in exploring the possibility of purchasing Cedar's interest in RiceCo. Those three parties conducted due diligence and met with myself and with RiceCo.

5. After the completion of the due diligence phase, only one party made a bid for Cedar's RiceCo interest (the "Bidder"). Although Cedar is unable at this time to disclose the identity of the Bidder and the exact purchase price, the proposed purchase price is indeed significant. Negotiations between Cedar and the Bidder were virtually completed when RiceCo received the ADEQ's letter about its potential liability for cleanup of the Cedar Facility.

6. The significant financial impact the ADEQ's claim could have on RiceCo has led the Bidder to reconsider its offer to purchase Cedar's interest in RiceCo. The Bidder has stated that it will walk away from the sale if the ADEQ's claim is not resolved soon. In fact, the Purchase and Sale Agreement between Cedar and the Bidder has been amended to allow the Bidder to cancel the sale if the ADEQ's claim against RiceCo is not resolved within a short time period.

7. If the ADEQ's claim is not resolved quickly, Cedar will likely not be able to close the transaction for the sale of its interest in RiceCo. If the Bidder decides not to buy Cedar's interest in RiceCo and walks away, it is unlikely that Cedar will be able to find another buyer, and the financial impact upon the estate will be severe.

/s/ Philip Gund

Philip Gund

Sworn to before me this  
6th day of February, 2003

/s/ Rosalind S. Clarke-Padgett  
Notary Public

## **EXHIBIT "B"**

**Exhibit "B"**

**63219\_2 MS Word**

Dec-08-02 10:05am From:RICECO

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T-027 P.01/03 F-013

# ADEQ

ARKANSAS  
Department of Environmental Quality

November 20, 2002

Mr. Gary Hogland  
RICECO, LLC.  
5100 Poplar Avenue, Suite 2428  
Memphis, TN 38137

RE: Cedar Chemical Corporation  
West Helena, Arkansas

Dear Mr. Hogland:

Information available to the Arkansas Department of Environmental Quality ("ADEQ" or "Department") reveals that hazardous substances were released into the environment as a result of operations at the Cedar Chemical Corporation, West Helena, Arkansas.

Arkansas law provides that any previous owner or operator of the Cedar Chemical site shall be liable to the state for all costs to remediate this site. Ark. Code Ann. § 8-7-512. As a result of RICECO's involvement in the formulation lab on the Cedar Chemical site, the Department contends that RICECO is a potentially responsible party concerning the abandoned chemicals located in the formulation laboratory. Ark. Code Ann. § 8-7-503(8).

Arkansas Law provides that responsible parties may be ordered to implement any remedial action as determined to be necessary to investigate; control, prevent, abate, threat, or contain any releases or threatened releases of hazardous substances from the site. Ark. Code Ann. § 8-7-508. Responsible parties may also be liable for the amount expended by the State for any and all remedial actions. Ark. Code Ann. § 8-7-512.

Such costs can include, but are not limited to, expenditures for action necessary to effect permanent control, abatement, prevention, treatment or containment of releases and threatened releases, including the removal of hazardous substances from the environment when such removal is necessary to protect human health and the environment. Ark. Code Ann. § 8-7-503(10).

Should a responsible party undertake remedial action pursuant to an administrative or judicial order or settlement, such party may obtain contribution to recover the costs and expenses of such



Mr. Greg Hogland  
RICECO, LLC.  
November 20, 2002  
Page 2

remedial action from other potentially responsible parties. Ark.  
Code Ann. § 8-7-520.

By this letter, ADEQ is notifying RICECO, LLC., of its potential liability with regard to this matter and encourages your participation in performing the necessary removal action of the abandoned chemicals in the formulation lab on the Cedar Chemical site.

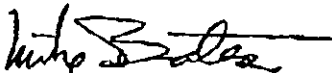
The Department requests that you respond to this letter or arrange for a conference call with this agency by December 6, 2002. If you have any questions for ADEQ, you may contact:

Dan Etzkorn, Esquire  
Legal Division  
Arkansas Department of  
Environmental Quality  
P. O. Box 8913  
Little Rock, AR 72219-8913  
(501) 682-0888

ADEQ is willing to enter negotiations with RICECO, LLC., to address the formulation laboratory. If RICECO, LLC., refuses to participate, ADEQ may seek a remedy through court action to ensure a removal action is performed at this site.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be, and cannot be, relied upon as a final Agency position on any matter set forth therein.

Sincerely,



Mike Bates, Chief  
Hazardous Waste Division

Certified Mail, Return Receipt Requested  
7000 0600 0023 8592 0198

## **EXHIBIT "C"**

**Exhibit "C"**



December 19, 2002

Mr. Dan Etzkorn, Esquire  
Legal Division  
Arkansas Department of  
Environmental Quality  
P. O. Box 8913  
Little Rock, AR 72219-8913  
FAX: 501-682-0891

Dear Mr. Etzkorn:

This letter is being written to respond to Mike Bates' letter dated November 20, 2002, and follow up on conversations you had with John Leeper and RiceCo's counsel. Mr. Bates' letter states that ADEQ has information which indicates that RiceCo may be a responsible party with respect to abandoned chemicals located in the formulations laboratory at Cedar Chemical Corporation's West Helena, Arkansas facility.

As explained more fully below, RiceCo is not aware of any facts that would make it responsible for any chemicals or conditions at Cedar Chemical Corporation's West Helena facility, but RiceCo would be happy to review with ADEQ any information that ADEQ possesses which would give rise to any such liability.

Mike Bates' November 20, 2002 letter did not identify any of the information or factual circumstances which led ADEQ to believe that RiceCo might have legal responsibility with respect to abandoned chemicals in the formulations laboratory at Cedar Chemical Corporation's West Helena facility. In recent conversations with John Leeper and RiceCo's counsel, you indicated that ADEQ's question arose out of the circumstances: (1) the presence of off-specification product on the Cedar premises which was packaged in containers bearing RiceCo's "brand" name; (2) RiceCo's relationship with a former Cedar employee; and (3) Cedar's partial ownership interest in RiceCo.

I am happy to address these three factual concerns. First, there appears to be a misunderstanding within ADEQ as to the relationship that RiceCo had with Cedar Chemical. RiceCo is an independent Limited Liability Corporation incorporated in Delaware. Cedar is one of two members of the LLC, owning less than a 50% interest in RiceCo.

On the date Cedar declared Chapter 11, March 7, 2002, RiceCo's officers of record were James K. Hines, President & CEO, and James E. Hieserman, VP Sales & Marketing. As of this date, the officers of RiceCo remain the same with the addition of Neil Robbins,

*"...from the paddy to the plate"*

5100 POPLAR AVENUE / SUITE 242B / MEMPHIS, TENNESSEE 38137 / TEL: (901) 818-9161 / FAX: (901) 684-5391

12/19/02 THU 18:10 [TX/RX NO 5197]

Director of Finance, hired on May 1, 2002. None of these officers has ever served simultaneously as officers of RiceCo and Cedar.

RiceCo has never held ownership in Cedar nor was it involved in the operation of the West Helena facility. RiceCo did not contract with Cedar for the use of the production or laboratory facilities at West Helena. No RiceCo employee ever worked in Cedar's production or laboratory facilities.

RiceCo contracted the temporary consulting services of Richard Fraley following his being terminated by Cedar. His consulting services to RiceCo began on March 15, 2002 and are scheduled to end December 31, 2002. Richard Fraley has never been an employee of RiceCo. Mr. Fraley has been an independent contractor who has billed RiceCo for his services on a monthly basis. Richard Fraley had previously worked in the Cedar formulations laboratory under the sole direction of Cedar management. RiceCo contracted his services, after he was terminated by Cedar, to assist RiceCo in transitioning to new formulators for the manufacture of our propanil products in the United States after Cedar shut down production.

RiceCo occasionally assisted Cedar in acquiring raw materials and competitive products for evaluation. Upon delivery, these materials became the property of Cedar.

RiceCo only purchased technical propanil and finished formulated product from Cedar as a customer. Ownership of product was transferred to RiceCo when the finished product exited the site and either went to the Blackhawk Warehouse or directly to our customers. Billing and payment were based on either of these events. Ownership is clearly specified in the documents establishing RiceCo as a LLC, dated May 5, 1997. Article 21, paragraph 3. Prices and Payment Terms contains the following:

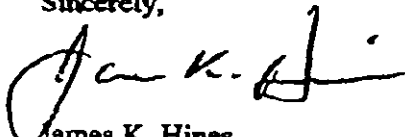
"Invoices hereunder shall be issued on and as of date of shipment"  
"Title to Product and risk of loss thereof shall pass to Riceco on the earlier date of shipment or invoice."

RiceCo has no knowledge or ownership of any inventory of off specification products at the West Helena site. Product determined to be off specification by Cedar would not leave the plant site and therefore ownership would not transfer to RiceCo. RiceCo had no control over what containers Cedar used at their West Helena site to hold products that were off specification prior to their being reworked. Ownership of off specification product is clearly specified in the documents establishing RiceCo as a LLC, dated May 5, 1997. Article 21, paragraph 5. Warranties and Insurance:

"Cedar warrants title to all Products sold hereunder and that such Products shall meet the specifications set forth in the Confidential Statements of Formula with respect to each such Product on file with the appropriate regulatory agency"

It is clear in the above wording that off specification product placed it outside the parameters of the product's registration. Therefore it was not marketable, would not be shipped and RiceCo would not be invoiced for or take title to the product.

Sincerely,



James K. Hines  
President & CEO

**EXHIBIT "D"**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 11

CEDAR CHEMICAL CORPORATION and  
VICKSBURG CHEMICAL COMPANY,

Case Nos. 02-11039 (SMB) and  
02-11040 (SMB)

Debtors.

Jointly Administered  
-----X

**ORDER PURSUANT TO 11 U.S.C. § 105, DETERMINING THAT RICECO  
IS NOT LIABLE FOR ENVIRONMENTAL CLEANUP, AND PURSUANT  
TO 11 U.S.C. § 362(a) OR, ALTERNATIVELY, PURSUANT TO 11 U.S.C. §  
105, APPLYING AND ENFORCING THE AUTOMATIC STAY**

Upon the motion dated February 7, 2003 (the "Motion") of the above-captioned debtors and debtors-in-possession (the "Debtors") for an order pursuant to 11 U.S.C. § 105, determining that RiceCo, LLC ("RiceCo") is not liable for cleanup of the facility (the "Cedar Facility") formerly owned and operated by Cedar Chemical Corporation ("Cedar") and, pursuant to 11 U.S.C. §§ 362(a) and 105, applying and enforcing the automatic stay with respect to actions taken by the Arkansas Department of Environmental Quality (the "ADEQ"); and good and sufficient notice of the Motion having been given in accordance with the Bankruptcy Code and Bankruptcy Rules and no further notice need be given; and the Court having determined that the relief requested in the Motion is in the best interest of the Debtors, their estates and creditors; and upon the record of these chapter 11 cases; and after due deliberation thereon and good cause appearing therefor, it is hereby

ORDERED, that RiceCo is not liable to the ADEQ for cleanup of the Cedar Facility pursuant to Ark. Code section 8-7-512; and it is further

ORDERED, that the ADEQ's actions in pursuing RiceCo for cleanup of the Cedar Facility violate the automatic stay provisions of 11 U.S.C. § 362(a), and pursuant to 11 U.S.C. §§ 362 and 105, the ADEQ be, and hereby is, barred from further pursuit of such actions against RiceCo.

Dated: New York, New York  
February \_\_, 2003

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Stuart M. Bernstein  
Chief United States Bankruptcy Judge